

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PAYCARGO FINANCE LP,

CASE NO.: 1:22-cv-22707-KMW

Plaintiff,

vs.

ASPEN AMERICAN INSURANCE
COMPANY,

Defendant,

and

BAY MARITIMES INC.,

Nominal Defendant.

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO FILE AN EXHIBIT TO ITS
MOTION FOR A CONTINUANCE UNDER SEAL**

Plaintiff PayCargo Finance LP respectfully moves the Court for entry of an Order granting leave for it to file an exhibit to its motion for a continuance under seal. In support, Plaintiff states:

Trial is currently set for November 20, 2023. However, Plaintiff intends to move for a continuance based on recent health issues experienced by Philip Philliou. Mr. Philliou served as Plaintiff's witness pursuant to Federal Rule of Civil Procedure 30(b)(6) in two depositions in this case and was anticipated to be Plaintiff's corporate representative at trial for purposes of Federal Rule of Evidence 615. To substantiate its request for a continuance, Plaintiff intends to attach a note from Mr. Philliou's doctor as an exhibit to the Motion for a Continuance. Plaintiff is moving to file this exhibit under seal due to its containing personal medical information.

A motion to file documents under seal should be granted when good cause exists. *Romero v. Drummond Co.*, 480 F.3d 1234, 1246 (11th Cir. 2007) (noting that documents may be sealed

when “[a] party’s privacy or proprietary interest in information ... overcomes the interest of the public in accessing the information.”). Courts have recognized that the privacy interests of medical information can justify the filing of documents under seal. *See Pena v. Marcus*, 6:15-CV-69-ORL-18TBS, 2016 WL 10891560, at *2 (M.D. Fla. Nov. 4, 2016) (“After due consideration, the Court finds that Plaintiff’s privacy interest outweighs the public’s interest in learning the details of her health contained in her medical records.”). This is supported by the protections that Congress has afforded to such information in the form of the Health Insurance Portability and Accountability Act. *Id.* Additionally, “[d]ecisions less central to merits resolutions implicate lesser right-to-access considerations....” *Romero*, 480 F.3d at 1246, quoting Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, *Federal Practice and Procedure* § 2035 (2d ed.1994).

Filing under seal is warranted to protect Mr. Philliou’s personal medical information. Although he is employed by Plaintiff, he is not a party to the case in an individual capacity and has not placed his health at issue in the Complaint. This information is being proffered for a procedural motion, rather in connection with the merits of the case itself.

Pursuant to Local Rule 5.4(b), the proposed duration of any sealing would be the duration of any appeal in the case, unless otherwise ordered by the Court. After such time, the sealed materials may either be destroyed or returned to the producing party.

Prior to filing this Motion, counsel for Plaintiff conferred with counsel for Defendant Aspen American Insurance Company regarding the relief sought herein. Counsel for Aspen indicated that Aspen does not object to the document at issue being filed under seal.

WHEREFORE, PayCargo Finance LP respectfully requests this Court enter an Order granting leave to file an exhibit to its Motion for Continuance under seal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on October 26, 2023, a copy of this *Motion for Leave to File*
an Exhibit to its Motion for Continuance Under Seal was served upon:

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